

Lee



STATE OF UTAH

R. PAUL VAN DAM - ATTORNEY GENERAL

1636 WEST NORTH TEMPLE, #300 • SALT LAKE CITY, UTAH 84116 • TELEPHONE: 801 538 7227 • FAX NO.: 801 538 7315

JOSEPH E. TESCH
CHIEF DEPUTY ATTORNEY GENERAL

February 12, 1990

Edward W. Clyde
CLYDE, PRATT & SNOW
Attorneys at Law
200 American Savings Plaza
77 West Second South
SALT LAKE CITY UT 84101

Joseph Novak
SNOW, CHRISTENSEN & MARTINEAU
Attorneys at Law
#10 Exchange Place, #1100
SALT LAKE CITY UT 84111

Re: 1990 Distribution - Duchesne River

Dear Ed and Joe:

Enclosed is a draft of our Motion and proposed Order governing the Duchesne River System for the upcoming irrigation season. The distribution schedule which is to be attached to both documents as Exhibit A is presently being finalized and is not included. It will, however, be based on a duty of 4.5 acre-feet per acre. I know going to the 4.5 acre-foot duty for this year will not make you happy, but Bob and Jerry feel this is probably a good year to attempt to demonstrate to the non-Indian users that anything above 4 acre-feet is not in their best interest. Since both the District and PRWUA will have a relatively narrow "window" for diversions this spring, Bob and Jerry feel your clients will not be unduly affected.

If we can reach a settlement with the Utes and get the compact through Congress, we can then join the United States and the Tribe, go for a full-blown trial on the duty issue, and get it settled for once and for all.

I have attempted to draft the motion to reflect that the State Engineer still believes that a 4 acre-foot duty is reasonable. While we all understand your concerns, we feel this approach--for this year only--has some merit. We have also discussed the matter with Dee Hansen and he agrees.

Edward W. Clyde
Joseph Novak
February 12, 1990
PAGE TWO

I spoke with Gayle McKeachnie and told him that if we went to a 4.5 acre-foot duty for this year, the Bureau and the District would probably not be so flexible on delivering contract water or in allowing the use of Starvation Reservoir for short term storage. Gayle said he was going to check with his clients, and that they might prefer the 4 acre-foot duty with the other flexibility. I have not heard back from him as yet. If the Bureau and/or the District can convince Gayle to go with the 4 acre-foot duty, we would, of course, agree to that.

I would like to file the motion and schedule with the Court by the end of this week.

Best regards.

Very truly yours,



MICHAEL M. QUEALY
Assistant Attorney General

Enclosures

cc: Robert L. Morgan, State Engineer
cc: Jerry D. Olds, Directing Investigations Engineer
cc: Lee H. Sim, Directing Adjudication Engineer
UTAH DIVISION OF WATER RIGHTS

cc: John H. Mabey, Jr., Assistant Attorney General

MMQ/jr